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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,864	03/22/2004	Gary M. Johnson	A-3061-AL	1803
21378	7590	07/20/2007		
APPLIED MEDICAL RESOURCES CORPORATION				
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			EXAMINER	
			HALL, DEANNA K	
			ART UNIT	PAPER NUMBER
			3767	
			MAIL DATE	DELIVERY MODE
			07/20/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/805,864

Applicant(s)

JOHNSON ET AL.

Examiner

Deanna K. Hall

Art Unit

3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date March 22, 2004; July 19, 2005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statements (IDS) submitted on March 22, 2004 and July 19, 2005 are in compliance with the provisions of 37 CFR 1.97(b). Accordingly, the IDS is being considered by the Examiner.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 12-14, 23, 25-26 and 29-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoon (US 5,707,362). Yoon discloses: a surgical access port comprising:

An elongate tubular body 60 and a tip 42 which moves from a first penetrating position to a second, retaining position once the body wall has been traversed C2 L25-37.

A seal housing having an access port providing an opening into the tubular body to allow passage of surgical instruments C5 L48-53.

The tip can be solid or hollow, sharp, pointed or bladed 66 or is substantially blunt or has a conical surface, See Fig. 23, C25 L4-35, wherein the conical surface has at least

one tissue engaging helical raised pattern on the surface, See Fig. 21. The tip can make a small skin incision and because of its conical structure separates the different layers of the body wall with a reduced penetration force.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5-11, 17-22 and 31-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoon in view of Taylor (US 5,279,564).

Yoon shows as discussed above. Yoon does not directly show a retention member for connecting the tubular body and the tip wherein the tip, with two or more parts or petals, repositions to one side in a substantially right-angled condition in the second, retaining position. Yoon also does not directly show a spring, a spring wire, an offset hinge or a "living" hinge retention member formed from a substantially flat ribbon of metal or plastic and operably connected with a sidewall of the tubular body. Taylor, in the analogous art, teaches all of these above structural elements, See abstract and C4 L12-46. Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified the device of Yoon with the elements as taught by Taylor for securing the cannula to a body opening.

6. Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoon in view of Richard (US 6,383,195).

Yoon shows as discussed above. Yoon does not directly show a hollow tip operating as a specimen bag made of optically clear material. Richard, in the analogous art, teaches a specimen removal sheath bag 15. Examiner interprets sheath to include an optically clear material. Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified the device of Yoon with the specimen removal bag as taught by Richard for removing potentially diseased material from inside a body opening without exposing the remainder of the tissue, Richard C1 L25-31.

7. Claims 24 and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoon in view of Farley et al. (US 5,372,588) ("Farley").

Yoon show as discussed above. Yoon does not directly show side sections extending radially outwardly from the tip with the distal portion being twisted radially with respect to the proximal portion. Farley, in the analogous art, teaches radially outwardly extending side sections 30 that are radially twisted, See Fig. 4. Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified the device of Yoon with the side sections as taught by Farley for securing the cannula to a body opening.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deanna K. Hall whose telephone number is 571-272-2819. The examiner can normally be reached on M-F 8:00am-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on 571-272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Deanna K. Hall  
Examiner  
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dkh

KEVIN C. SIRMONS  
SUPERVISORY PATENT EXAMINER

